the splitting of the cause of action. See the principal case. Judgment in favor of the partial assignee is then no bar to a later action brought by the assignor. In states where the partial assignee's only standing is in equity, the assignor has, in the part which he did not assign, an interest concurrently legal and equitable; he has, in addition, in the part which he did assign, an interest exclusively legal which conflicts with his assignee's paramount equitable interest. In states where the partial assignee's interest is concurrently legal and equitable, the assignor's interest is also concurrently legal and equitable, but strictly limited to the part of the chose in action which he did not assign. In the part which he did assign, he has no interest, either at law or in equity. See Professor Cook, Alienability of Choses in Action (1917) 30 HARV. L. REV. 449, 455-460.

R. P.

CONFLICT OF LAWS—DUE PROCESS—SERVICE ON ABSENT DEFENDANT BY PUBLICATION.—MCDONALD V. MABEE (1917) 37 SUP. CT. REP. 343.—The defendant, domiciled in Texas, but having gone to Missouri with the intention of permanently residing there, was served by publication and a personal judgment rendered against him on a promissory note. In error to the U. S. Supreme Court, he contended this was a denial of due process. *Held,* that there was such a denial.

The decisions as to the validity of personal judgments against absent domiciled citizens by publication of service have hitherto been in irreconcilable conflict. *Henderson v. Staniford* (1870) 105 Mass. 504; *Raher v. Raher* (1911) 150 Ia. 511. The latter case held that no personal judgment could be rendered against a citizen and resident of a state temporarily absent therefrom, even though personally served, the service being required to be within the limits of the state. The majority opinion relied on *Pennoyer v. Neff* (1877) 95 U. S. 714, but anything in the *Pennoyer v. Neff* case favorable to this view is dictum. *Henderson v. Staniford, supra,* decided that the contractual obligation made in California was well discharged by a California judgment, though rendered after service by publication on the defendant, who was a domiciled citizen of California temporarily absent. The Massachusetts court was thus consistent with the weight of authority, which holds that the law governing the primary obligation of a contract governs in like manner the secondary obligation: that is, the Massachusetts court was merely incorporating the *lex loci contractus* (here California) and deciding that it would adopt and incorporate such law throughout all the obligations which might arise as a result of the contract. See Professor Hohfeld in (1909) 9 COL. L. REV.; comment in (1917) 26 YALE LAW JOURNAL, 771. The important case of *De la Montanya v. De la Montanya* (1896) 112 Cal. 101, held that a decree of alimony, operating as a judgment in personam against a domiciled citizen of California, temporarily without the state, there being notice by publication, was void because of lack of due process. A parallel situation to that in the principal case, in which the defendant never intended to return to Texas, was presented in the recent New York case of *Grubel v. Nassauer* (1913) 210 N. Y. 149, in which the court refused

recognition to a German judgment rendered against the defendant by publication during his residence in America with the declared intention of assuming American citizenship. The principal case contains a very important intimation to the effect that perhaps a summons left at the defendant's last and usual place of abode would have been sufficient to give the judgment validity. It is to be regretted that the court did not render a decision squarely on this important point, as it is fairly involved in the case. However, its direct holding as to the invalidity of the Texas judgment would seem in accord with the authorities, though conceivably a strong argument might be made for a contrary conclusion. See the vigorous dissenting opinion of Mr. Justice Deemer in *Raher v. Raher* (1911) 150 Ia. 511, 533.

A. N. H.

CONSTITUTIONAL LAW—SERVICE OF A FOREIGN CORPORATION—CAUSE OF ACTION ARISING OUTSIDE OF STATE.—PENNSYLVANIA FIRE INS. CO. v. GOLD ISSUE MIN. & MILL. CO. (1917) 37 SUP. CT. REP. 344.—A policy insuring certain buildings in Arizona was issued in Colorado by the plaintiff in error, an Arizona corporation. The insurance company had obtained a license to do business in Missouri, and in compliance with the statutes of that state filed with the superintendent of the insurance department a power of attorney to accept service of process on behalf of the company, "so long as it should have any liabilities outstanding in the state." The present suit to recover money alleged to be due on the policy was begun by service upon the superintendent. The insurance company contended that such service of process was not due process of law and was insufficient, claiming that the statute referred only to suits arising from Missouri contracts. *Held,* that the service of process was sufficient as it was in compliance with the statute.

Although a corporation has no corporate existence outside the state of its creation, as a general rule, on the grounds of comity, the corporation may exercise many of its powers within another state. *Kirvin v. Virginia-Carolina Chemical Co.* (1906) 145 Fed. 288; *Oriental Ins. Co. v. Daggs* (1898) 172 U. S. 557. In other words, a corporation of one state cannot do business in another without the latter's consent; and this consent may be accompanied by such conditions as the state may think proper to impose. *St. Clair v. Cox* (1882) 106 U. S. 356. As one of these conditions, the state may provide for service of process upon a foreign corporation acting in the state, by requiring such corporation to name some agent upon whom service may be made. *State v. Petroleum Co.* (1905) 58 W. Va. 108; *Mutual Reserve Ass'n v. Phelps* (1902) 190 U. S. 147. The weight of modern authorities seems to support the proposition that when a corporation has an agent for such service and is doing business in the foreign jurisdiction, the corporation may be sued upon any transitory cause of action. *Reeves v. Southern Rev. Co.* (1904) 121 Ga. 565; *Bogdon v. Phila. & Reading C. & I. Co.* (1916) 217 N. Y. 439; *Johnston v. Trade Ins. Co.* (1882) 132 Mass. 432. And this without regard to the residence of the plaintiff or the place at which the cause of action arose. *Hawkens v. Fidelity & Cas. Co.* (1905) 123